

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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DCML LLC, :  
Plaintiff, : No. 08 cv 5829 (SAS)  
: v.  
: ECF Case  
DANKA BUSINESS SYSTEMS PLC, A.D. :  
FRAZIER, W. ANDREW MCKENNA, DR. KEVIN :  
C. DALY, JAIME W. ELLERTSON, :  
CHRISTOPHER B. HARNED, J. ERNEST :  
RIDDLE, ERIK VONK, DAVID DOWNES, :  
JOSEPH E. PARZICK, and CYPRESS MERCHANT :  
BANKING PARTNERS II L.P., :  
: Defendants.  
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**NOTICE OF CYPRESS MERCHANT BANKING PARTNERS II L.P.'S  
MOTION TO DISMISS DCML LLC'S FIRST AMENDED COMPLAINT**

PLEASE TAKE NOTICE THAT, upon the First Amended Complaint of DCML LLC (“DCML”); the accompanying Memorandum of Law in Support of Cypress Merchant Banking Partners II L.P.’s (“Cypress”) Motion to Dismiss DCML’s First Amended Complaint; the Memorandum of Law in Support of the Motion of Danka Business Systems PLC, A.D. Frazier, W. Andrew McKenna, Dr. Kevin C. Daly, Jaime W. Ellerston, Christopher B. Harned, J. Ernest Riddle, Erik Vonk, David Downes, and Joseph E. Parzick (the “Danka Defendants”) to Dismiss DCML’s First Amended Complaint Pursuant to Fed. R. Civ. P. 12(b)(6), the accompanying declaration of Albert L. Hogan, III, and the exhibits attached thereto; and all of the prior papers and proceedings herein, Cypress will move before the Honorable Shira A. Scheindlin, United States District Judge, at the Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10017, at a date and time to be designated by the Court, for

an order pursuant to Federal Rule of Civil Procedure 12(b)(6) dismissing with prejudice DCML's First Amended Complaint and awarding such other and further relief as the Court deems just and proper.

Cypress certifies that the parties have exchanged correspondence in an effort to resolve the issues raised by this motion, but they were unable to reach any resolution or otherwise eliminate the need for this motion.

Dated: New York, New York  
September 5, 2008

SIMPSON THACHER & BARTLETT LLP

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